

UNITED STATES DISTRICT COURT  
DISTRICT OF DELAWARE

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MICHAEL WRIGHT  
Petitioner

v.

UNITED STATES OF AMERICA  
respondent

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99cr34 JJF



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PETITIONER'S TRAVERSE BRIEF

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DISCUSSION

1. In its misguided attempt to mislead this Honorable court the government argues that petitioner's motion is untimely and should be dismissed.

In its argument the government took the position that petitioner's motion is a §2255 instead of the rule 60(b) motion that petitioner actually filed. Then, in its promotion of this transparent charade the government argues that the one-year statute of limitation for a §2255 motion should be applied.

However, what the government's argument has failed to highlight is the fact that rule 60(b) states in pertinent parts:

A motion under subdivision (b) does not effect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in Title 28, U.S.C. §1655... **Rule 60(b)(6), Fed. R. of. Crim. Proc.**

As a result, petitioner submit that this Honorable court is vested with the jurisdiction to adjudicate his rule 60(b) motion on its without the necessity to construe such as a § 2255.

Petitioner contends that there is no legal justification for this court to adopt the government's position and engage in the sophistry that it suggests. Rule 60(b) was promulgated for cases such as this case that before this Honorable court, and it will surely be a violation of the intent and purpose of that congressional enacted law to follow the government's misguided misrepresentation and blatant stretch of the facts and the statute involved.

Therefore, petitioner submit to this Honorable court that the government's argument should be rejected and this motion should be decided on its merits.

11. The government then argues that: " The defendant's sole substantive argument is that the court "imposed two five-year terms of supervised release to be served consecutively" which "were above the statutorily mandated term of supervised release."...The defendant's argument is incorrect as to both facts of the case and the law, and therefore, must be rejected.

This Court sentenced the defendant to a ten years term of supervised release on count one.... Thus, the defendant's argument is factually incorrect."

Petitioner submit to this Honorable court that the government's argument is belied by the records. As the record reflects, this Honorable court inadvertently, but specifically stated that:

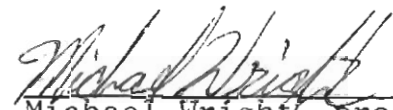
...Upon release from imprisonment, the defendant shall be placed on supervised release for a term of five years on each count, those terms to run consecutively, for a total of ten years supervised release." (Sentencing transcript, page 15, lines 4-7).

As a result, petitioner submits that the government's claim that "this court sentenced the defendant to a ten years term of supervised release on count one," is yet another blatant attempt to mislead this Honorable court with absolute disregard for the truth, the law, or Justice.

Laws are what vex or soothe, corrupt or purify, exalt or debase, barbarize or refine us all by its constant, steady, uniform operation like the air that we breathe in. And to allow the government, a kind of moral performing artist, indifferent to the truth, more concerned with the impression that it makes than the truth it conceals, the latitude to be indifferent to the facts of this case, is to condone the continued violations of those very laws which this Honorable court was created to uphold.

**Wherefore,** for the above-mentioned reasons, petitioner prays that this Honorable court reject the government fallacious arguments and grant his motion by reducing his term of supervised release to three years years as required by the statutes.

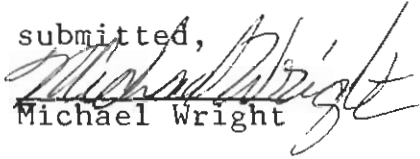
Respectfully submitted,

  
Michael Wright, pro-se

CERTIFICATE OF SERVICE

I, Michael Wright, petitioner, hereby declare under the penalty of perjury that a true copy of this Rule 60(b) motion has been mailed via first class mail on April 21, 2005, to Ms. Beth Moskow-Schnoll. AUSA, at 1201 Market Street, Suite 1100, Wilmington, DE 19899.

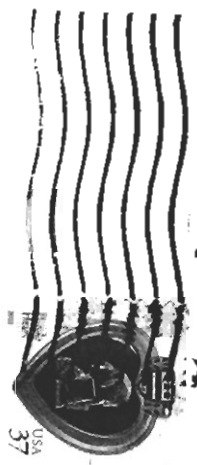
Respectfully submitted,

  
Michael Wright

Inmate Name: Michael Wright  
Register Number: 01064-748

Unit 1

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